

# **Linking Alternative Dispute Resolution (ADR) and Environmental, Social and Governance (ESG) Tenets for Sustainable Development**

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**Kariuki Muigua**

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# Linking Alternative Dispute Resolution (ADR) and Environmental, Social and Governance (ESG) Tenets for Sustainable Development

Kariuki Muigua\*

## Abstract

*The paper focuses on the nexus between Alternative Dispute Resolution (ADR) mechanisms and Environmental, Social and Governance (ESG) tenets. It argues that linking ADR and ESG tenets can foster the realization of the Sustainable Development agenda. The paper gives an overview of the concepts of ADR, ESG and Sustainable Development. It then critically examines the relationship between ADR mechanisms and ESG tenets and highlights some of the fundamental concerns thereof. The paper further suggests measures through which ADR mechanisms can be linked with ESG tenets in order to achieve Sustainable Development.*

## 1.0 Introduction

Alternative Dispute Resolution (ADR) has been defined as an all-encompassing term that entails multiple non-judicial methods of managing conflicts<sup>1</sup>. ADR has also been defined as a set of mechanisms for resolving conflicts that function outside formal court litigation processes<sup>2</sup>. ADR thus generally refers to a set of processes that are used to manage conflicts without resort to courts<sup>3</sup>. These mechanisms include negotiation, mediation, arbitration, adjudication, neutral evaluation, enquiry, expert determination and conciliation<sup>4</sup>. In Kenya, ADR mechanisms have been recognized under the Constitution which mandates courts and tribunals to promote alternative forms of dispute resolution<sup>5</sup>.

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\* PhD in Law (Nrb), FCIArb (Chartered Arbitrator), LL. B (Hons) Nrb, LL.M (Environmental Law) Nrb; Dip. In Law (KSL); FCPS (K); Dip. in Arbitration (UK); MKIM; Mediator; Consultant: Lead expert EIA/EA NEMA; BSI ISO/IEC 27001:2005 ISMS Lead Auditor/ Implementer; ESG Consultant; Advocate of the High Court of Kenya; Senior Lecturer at the University of Nairobi, Faculty of Law; Member of the Permanent Court of Arbitration (PCA) [July, 2023].

<sup>1</sup> Block. M. J., 'The Benefits of Alternate Dispute Resolution for International Commercial and Intellectual Property Disputes.' *Rutgers Law Record.*, Volume 44, 2016-2017

<sup>2</sup> Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' *Africa Security Brief*, No. 16 of 2011

<sup>3</sup> Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Glenwood Publishers Limited, 2015

<sup>4</sup> Ibid

<sup>5</sup> Constitution of Kenya, 2010, article 159 (2) (c), Government Printer, Nairobi

ADR mechanisms have been hailed for their advantages which include informality, privacy, confidentiality, party autonomy and the ability to foster expeditious and cost effective management of disputes<sup>6</sup>. ADR mechanisms are thus viable in enhancing access to justice.

Issues such as climate change, corporate corruption and financial inequality have become pressing global concerns<sup>7</sup>. In turn, corporations have faced growing calls to be more environmentally sustainable, socially responsible and culturally transparent in how they run business<sup>8</sup>. This has led to the emergence of the concept of Environmental, Social and Governance (ESG). This is a concept that seeks to achieve sustainable, responsible and ethical investment by incorporating Environmental, Social and Governance concerns in corporate decision making<sup>9</sup>. ESG is usually a standard and strategy used by investors to evaluate corporate behaviour and to determine the future financial performance of companies<sup>10</sup>. ESG entails a subset of non-financial performance indicators which include sustainable, ethical and corporate governance issues such as managing a company's carbon footprint and ensuring there are systems in place to ensure accountability<sup>11</sup>. It involves monitoring and reporting environmental concerns such as carbon emissions, water consumption and waste generation; social concerns such as employee, product and customer related data and governance concerns such as political lobbying, anti-corruption initiatives and board diversity<sup>12</sup>. The goal of ESG is to integrate Environmental, Social and Governance factors in corporate activities in order to enhance the sustainability and social impact of business activities<sup>13</sup>. ESG concerns have never been

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<sup>6</sup> Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

<sup>7</sup> CMS., 'Putting the 'S' in 'ESG'- a Corporate Guide.' Available at <https://cms.law/en/int/publication/social-aspect-of-esg-lexicon-of-most-important-terms-and-phrases> (Accessed on 11/07/2023)

<sup>8</sup> Ibid

<sup>9</sup> Stuart. L.G et al., 'Firms and social responsibility: A review of ESG and CSR research in corporate finance.' *Journal of Corporate Finance* 66 (2021): 101889.

<sup>10</sup> Li. T.T et al., 'ESG: Research Progress and Future Prospects.' *Sustainability*, No. 13 of 2021.

<sup>11</sup> Stuart. L.G et al., 'Firms and social responsibility: A review of ESG and CSR research in corporate finance.' Op Cit

<sup>12</sup> Ibid

<sup>13</sup> Li. T.T et al., 'ESG: Research Progress and Future Prospects.' Op Cit

more important. They play into everything; increasingly driving investment decisions and commercial contracts to company strategy and culture<sup>14</sup>. The concept of ESG is pertinent since Environmental, Social and Governance concerns have become a societal focal point in light of the Sustainable Development agenda<sup>15</sup>.

Sustainable Development has been defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs<sup>16</sup>. It combines elements such as environmental protection, economic development and social concerns<sup>17</sup>. The importance of this concept led to the adoption of the 2030 Agenda for Sustainable Development by member states of the United Nations in 2015 as a shared blue print for peace and prosperity for people and the planet in the quest towards the ideal of Sustainable Development<sup>18</sup>. At the heart of the 2030 Agenda for Sustainable Development are 17 Sustainable Development Goals which seek to strike a balance between social, economic and environmental sustainability<sup>19</sup>. The Sustainable Development Goals seek to achieve global development within the ESG framework by addressing social concerns such as poverty, hunger, health, education, gender equality, access to clean water and employment through investments in areas such as energy, industry, innovation and infrastructure while mitigating the effects of climate change<sup>20</sup>.

The paper critically examines the relationship between ADR and ESG. It has been posited that ADR mechanisms such as arbitration and mediation can be used to enforce ESG

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<sup>14</sup> Lexology., 'Real Estate Disputes and ESG - A Rise in Mediation?' Available at <https://www.lexology.com/library/detail.aspx?g=75560ce7-518f-4ea4-9dbb-399c2feedf9a> (Accessed on 11/07/2023)

<sup>15</sup> Sriyani. C. & Heenetigala. K., 'Integrating Environmental, Social and Governance (ESG) Disclosure for a Sustainable Development: An Australian Study.' *Business Strategy and the Environment*, No. 26 of 2017.

<sup>16</sup> World Commission on Environment and Development., 'Our Common Future.' Oxford, (Oxford University Press, 1987)

<sup>17</sup> Fitzmaurice. M., 'The Principle of Sustainable Development in International Development Law.' *International Sustainable Development Law.*, Vol 1.

<sup>18</sup> United Nations., 'Transforming Our World: The 2030 Agenda for Sustainable Development.' Available at <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf> (Accessed on 08/07/2023)

<sup>19</sup> Ibid

<sup>20</sup> Ibid

requirements such as human rights, environmental compliance and good corporate governance<sup>21</sup>. The paper explores some of the ESG concerns in ADR. It further discusses practical ways through which ADR mechanisms can be used to realize ESG tenets in the quest towards Sustainable Development.

## 2.0 The Nexus between ADR and ESG

It has been pointed out that ADR mechanisms such as arbitration can aid in enforcing ESG concerns including human rights standards<sup>22</sup>. Business entities such as Multinational Corporations have been accused of perpetrating human right abuses through acts such as killings, rape, and other forms of sexual and gender-based violence, bad labour practices, displacement of people and land injustices against the neighbouring communities while undertaking investment activities in developing countries<sup>23</sup>. Further, the activities of multinational corporations especially those involved in the exploration of natural resources have resulted in environmental concerns such as environmental degradation, extinction of biodiversity, contamination and destruction of soil and air pollution affecting the socio-economic lives of indigenous populations<sup>24</sup>. This affects realizing the Environmental and Social tenets of the ESG framework<sup>25</sup>. ADR mechanisms can thus be used to enforce ESG standards by holding businesses responsible for violation of environmental and human rights standards<sup>26</sup>. Indeed there has been rise in investment treaty arbitration across the globe including Africa where Multinational Corporations are contractually bound through investment treaties to comply with ESG standards such as environmental governance and respect for human rights and are further subjected to ADR mechanisms especially arbitration when they violate ESG requirements stipulated

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<sup>21</sup> Gramatidis.B & Emvalomenos. D., 'Sustainability in Dispute Resolution -Mediation as an ESG Practice.' Available at <https://www.bahagram.com/sustainability-in-dispute-resolution-mediation-as-an-esg-practice/> (Accessed on 08/07/2023)

<sup>22</sup> Ajibade, L.T & Awomuti, A.A. 'Petroleum Exploitation or Human Exploitation? An Overview of Niger Delta Oil Producing Communities in Nigeria' *African Research Review*, Vol. 3 (1), 2009. Pp. 111-124

<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> Li. T.T et al., 'ESG: Research Progress and Future Prospects.' Op Cit

<sup>26</sup> Ismayilova. A & Jedrzejowski. P., 'ESG and ADR.' Available at <https://www.cpradr.org/news/at-the-council-esg-and-adr##> (Accessed on 11/07/2023)

in investment treaties<sup>27</sup>. Further, the *United Nations Guiding Principles on Business and Human Rights* provide a framework for realizing Environmental, Social and Governance standards by enshrining the corporate responsibility to respect human rights towards attaining the ESG pillars through sound environmental management, protection of human rights and good corporate governance<sup>28</sup>. The *Hague Rules on Business and Human Rights Arbitration* flow from the UN Guiding Principles on Business and Human Rights and provide a framework through which business entities can be compelled to comply with ESG standards through arbitration<sup>29</sup>. The nexus between ADR and ESG is therefore demonstrated through the use of ADR mechanisms to enforce ESG tenets.

ADR mechanisms are also ideal in managing ESG disputes by fostering privacy, cost effective and expeditious management of disputes while also allowing parties to select experts to hear and determine contentious ESG matters<sup>30</sup>. Business would normally prefer to have their disputes managed in a private manner in order to prevent ruining their image in public and also in an expeditious and cost effective manner in order to protect business interests<sup>31</sup>. ADR mechanisms such as International Commercial Arbitration and International Commercial Mediation allows businesses to attain these benefits by ensuring privacy, confidentiality, cost effectiveness and expeditiousness in management of disputes and further promoting the enforceability of decisions<sup>32</sup>. ADR mechanisms also allow business to select expert decision makers such as arbitrators and mediators who are knowledgeable on ESG issues such as human rights, renewable

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<sup>27</sup> Dagbanja. D., 'The Environment, Human Rights, and Investment Treaties in Africa: A Constitutional Perspective.' *Handbook on International Investment Law and Policy*, 2020, P 1-30

<sup>28</sup> United Nations Guiding Principles on Business and Human Rights., Available at [https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr\\_en.pdf](https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf) (Accessed on 11/07/2023)

<sup>29</sup> The Hague Rules on Business and Human Rights Arbitration., Available at [https://www.cilc.nl/cms/wp-content/uploads/2019/12/The-Hague-Rules-on-Business-and-Human-Rights-Arbitration\\_CILC-digital-version.pdf](https://www.cilc.nl/cms/wp-content/uploads/2019/12/The-Hague-Rules-on-Business-and-Human-Rights-Arbitration_CILC-digital-version.pdf) (Accessed on 11/07/2023)

<sup>30</sup> Thailand Arbitration Center., 'Alternative Dispute Resolution: Significance of ESG in Arbitration.' Available at <https://thac.or.th/alternative-dispute-resolution-significance-esg-arbitration/> (Accessed on 11/07/2023)

<sup>31</sup> Ibid

<sup>32</sup> Moses. M., 'The Principles and Practice of International Commercial Arbitration.' Cambridge University Press, 2017

energy and climate change thus fostering effective and efficient management of disputes<sup>33</sup>. The growing interest of governments, regulators, Non-Governmental Organisations (NGOs) and private companies in ESG has led to a corresponding increase in the number of disputes involving ESG concerns<sup>34</sup>. Such disputes may be cross border in nature therefore requiring interpretation of laws from different nations<sup>35</sup>. ADR mechanisms such as International Commercial Arbitration and International Commercial Mediation are thus ideal in managing ESG related disputes since they have a transnational applicability and can foster privacy, confidentiality, expeditious and cost effective management of disputes. Further, mechanisms such as arbitration can ensure grant of interim reliefs in ESG related disputes important in instances like irreversible environmental damage or gross violation of human rights<sup>36</sup>. Injunctive relief can be obtained in an expedited manner, and since ESG disputes usually require initial adjudication that cannot be delayed, injunctive reliefs from arbitration proceedings are best suited for such purposes<sup>37</sup>. For instance, in the event that a business practice could cause irreparable environmental damage, the parties concerned could take advantage of emergency arbitration procedures before the constitution of the arbitral tribunal<sup>38</sup>. It has also been pointed out that the use of ADR mechanisms such as mediation in managing ESG related disputes is a practical demonstration of a sustainability-oriented business culture since mediation can offer a quick, flexible, consensual and win-win solution based on the mutually accepted interests of the parties<sup>39</sup>. Consequently, it has been asserted that

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<sup>33</sup> Muigua. K., 'The Viability of Arbitration in management of Climate Change Related Disputes in Kenya.' Available at <http://kmco.co.ke/wp-content/uploads/2022/04/The-Viability-of-Arbitration-in-management-of-Climate-Change-Related-Disputes-in-Kenya-11th-April-2022.pdf> (Accessed on 11/07/2023)

<sup>34</sup> Financier Worldwide., 'The Rise of ESG Disputes and the Role of Arbitration in Resolving Them.' Available at <https://www.financierworldwide.com/the-rise-of-esg-disputes-and-the-role-of-arbitration-in-resolving-them> (Accessed on 11/07/2023)

<sup>35</sup> Ibid

<sup>36</sup> Mondaq., 'International Arbitration and ESG: A New Trend in Dispute Resolution.' Available at <https://www.mondaq.com/pdf/1273354.pdf> (Accessed on 11/07/2023)

<sup>37</sup> Ibid

<sup>38</sup> Ibid

<sup>39</sup> Gramatidis. B & Emvalomenos. D., '*Sustainability in Dispute Resolution -Mediation as an ESG Practice.*' Op Cit

mediation is an ESG tool and its use adds ESG value to businesses<sup>40</sup>. It is thus ideal in managing ESG disputes including real estate disputes, environmental disputes and disputes relating to consumer and business relationships<sup>41</sup>. ADR mechanisms are thus viable in managing ESG related disputes.

In addition, it has been argued that parties can use ADR mechanisms such as negotiation to achieve ESG requirements at workplaces such as fair labour practices that entails the right to equal pay, workplace safety and leave among other entitlements<sup>42</sup>. Fair labour practices are a crucial component of the 'Social' pillar in the ESG debate<sup>43</sup>. Social factors in the ESG debate include working conditions, health and safety, employee relations, diversity, equity & inclusion, operations in conflict regions, and a vast array of further topics connected with sustainable labour relations<sup>44</sup>. It has been pointed out that negotiation is a big part of life and can be used effectively at workplaces by employees to negotiate with their employers for favorable working terms and conditions including fair labor practices which are vital in the ESG debate<sup>45</sup>. Negotiation has been described as an informal process that involves the parties meeting to identify and discuss issues at hand so as to arrive at a mutually acceptable solution without the help of a third party<sup>46</sup>. It can facilitate parties in coming up with creative solutions in various contexts including the workplace<sup>47</sup>. ADR mechanisms such as negotiation are thus viable in achieving ESG requirements by businesses such as fair labour practices.

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<sup>40</sup> Ibid

<sup>41</sup> Lexology., 'Real Estate Disputes and ESG - A Rise in Mediation?' Op Cit; See also Teixeira. A., 'The ESG Concept and Mediation.' Available at <https://www.linkedin.com/pulse/esg-concept-mediation-antonio-carlos-menezes-teixeira/> (Accessed on 11/07/2023)

<sup>42</sup> ESG., 'The Path to Equal Pay is Through Negotiation.' Available at <https://esgnews.bg/en/the-path-to-equal-pay-is-through-negotiation/> (Accessed on 11/07/2023b )

<sup>43</sup> Stuart. L.G et al., 'Firms and social responsibility: A review of ESG and CSR research in corporate finance.' Op Cit

<sup>44</sup> CMS., 'Putting the 'S' in 'ESG' - a Corporate Guide.' Op Cit

<sup>45</sup> ESG., 'The Path to Equal Pay is Through Negotiation.' Op Cit

<sup>46</sup> Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

<sup>47</sup> ESG., 'The Path to Equal Pay is Through Negotiation.' Op Cit

It is thus evident that ADR and ESG are interrelated concepts. ADR mechanisms can foster efficient management of ESG related disputes such as those concerning human rights and climate change<sup>48</sup>. Further, ADR mechanisms such as arbitration can aid in enforcing ESG concerns including human rights standards<sup>49</sup>. In addition, mechanisms such negotiation can be used to achieve ESG requirements at workplaces such as fair labour practices<sup>50</sup>. Linking ADR and ESG tenets is thus vital in fostering Sustainable Development by addressing social concerns such as poverty, hunger, health, education, gender equality, access to clean water and employment through investments in areas such as energy, industry, innovation and infrastructure while mitigating the effects of climate change as envisaged under the United Nations 2030 Agenda for Sustainable Development<sup>51</sup>. It is therefore imperative to link ADR and ESG tenets in order to achieve Sustainable Development.

### **3.0 Way Forward**

There is need to link ADR and ESG tenets in order to expedite the realization of the Sustainable Development agenda across the globe. One way through which this goal can be achieved is by incorporating ESG clauses in commercial contracts such as those concerning respect for human rights, environmental management and climate change<sup>52</sup>. This can ensure enforcement and compliance with ESG requirements by businesses<sup>53</sup>. In addition, parties should consider managing disputes concerning ESG requirements through ADR mechanisms such as arbitration and mediation. It has been observed that ESG disputes are increasingly being managed through ADR mechanisms such as

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<sup>48</sup> Thailand Arbitration Center., 'Alternative Dispute Resolution: Significance of ESG in Arbitration.' Op Cit

<sup>49</sup> Ajibade, L.T & Awomuti, A.A. 'Petroleum Exploitation or Human Exploitation? An Overview of Niger Delta Oil Producing Communities in Nigeria' Op Cit

<sup>50</sup> ESG., 'The Path to Equal Pay is Through Negotiation.' Op Cit

<sup>51</sup> United Nations., 'Transforming Our World: The 2030 Agenda for Sustainable Development.' Op Cit

<sup>52</sup> Millar. L., 'Reviewing and Negotiating Climate Change and other ESG clauses in Commercial Contracts.' Available at <http://in-houseblog.practicallaw.com/reviewing-and-negotiating-climate-change-and-other-esg-clauses-in-commercial-contracts/> (Accessed on 12/07/2023)

<sup>53</sup> Ibid

arbitration which are very suitable means of resolving ESG related disputes<sup>54</sup>. Businesses should tap into this opportunity and embrace ADR mechanisms in managing ESG disputes in order to promote flexibility, privacy, confidentiality, expeditiousness and cost effective management of such disputes<sup>55</sup>.

In addition, it is imperative for ADR practitioners such as arbitrators, mediators and adjudicators become familiar with ESG-related trends, regulations and standards, and ensure that they are proactive in complying with best practices so as to promote appropriate ADR procedures for ESG-related disputes<sup>56</sup>. ADR practitioners should also seek expert assistance on complex ESG matters such as determining compliance with climate change commitments<sup>57</sup>. Organizations can also seek expertise from qualified personnel to help them navigate the complexity of ESG and put in place measures to ensure compliance with ESG standards<sup>58</sup>.

It is also pertinent for organizations to uphold ESG practices such as green innovation in order to foster Sustainable Development<sup>59</sup>. Green innovation incorporates technological improvements that save energy, prevent pollution or enable waste recycling and can include green product design<sup>60</sup>. This will ensure compliance with ESG requirements such as environmental protection while promoting the financial performance of

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<sup>54</sup> Mondaq., 'International Arbitration and ESG: A New Trend in Dispute Resolution.' Op Cit

<sup>55</sup> Thailand Arbitration Center., 'Alternative Dispute Resolution: Significance of ESG in Arbitration.' Op Cit

<sup>56</sup> Mondaq., 'International Arbitration and ESG: A New Trend in Dispute Resolution.' Op Cit

<sup>57</sup> Muigua. K., 'The Viability of Arbitration in management of Climate Change Related Disputes in Kenya.' Op Cit

<sup>58</sup> CEDR., 'Environmental, Social and Governance (ESG) Expertise.' Available at <https://www.cedr.com/commercial/esg/> (Accessed on 12/07/2023)

<sup>59</sup> Zhang. F et al., 'The Interaction Effect between ESG and Green Innovation and Its Impact on Firm Value from the Perspective of Information Disclosure.' Available at <https://pdfs.semanticscholar.org/103a/4aa7542fe368e99c42614c11b05a1f4097d7.pdf> (Accessed on 12/07/2023)

<sup>60</sup> Chouaibi. S & Chouaibi. J., 'ESG and Corporate Financial Performance: The Mediating Role of Green Innovation: UK common Law versus Germany Civil Law.' Available at [https://www.researchgate.net/profile/Jamel-Chouaibi/publication/348476713\\_ESG\\_and\\_corporate\\_financial\\_performance\\_the\\_mediating\\_role\\_of\\_green\\_innovation\\_UK\\_common\\_law\\_versus\\_Germany\\_civil\\_law/links/61fedadd702c892cef07ac56/ESG-and-corporate-financial-performance-the-mediating-role-of-green-innovation-UK-common-law-versus-Germany-civil-law.pdf](https://www.researchgate.net/profile/Jamel-Chouaibi/publication/348476713_ESG_and_corporate_financial_performance_the_mediating_role_of_green_innovation_UK_common_law_versus_Germany_civil_law/links/61fedadd702c892cef07ac56/ESG-and-corporate-financial-performance-the-mediating-role-of-green-innovation-UK-common-law-versus-Germany-civil-law.pdf) (Accessed on 12/07/2023)

organizations<sup>61</sup>. In the context of ADR, it is essential for practitioners such as mediators, arbitrators and adjudicators to embrace sustainable practice through measures such as the use of electronic correspondence and electronic submissions; avoiding printing unnecessarily and promoting the use of electronic bundles at hearings; encouraging the use of videoconferencing facilities as an alternative to travel, where appropriate (including for the purpose of fact-finding interviews with witnesses and cross-examination of witnesses or experts); selecting suppliers and service providers that are committed to reducing their environmental impact; and avoiding unnecessary travel and offsetting carbon emissions for ADR-related travel<sup>62</sup>. This will enhance Sustainable Development while also achieving ESG tenets such as sound environmental management. ADR practitioners such as arbitrators should also ensure that their awards promote ESG tenets such as respect for human rights<sup>63</sup>. It is also imperative for ADR practitioners to enforce good governance practices such as transparency, accountability, reporting and disclosure in their decisions<sup>64</sup>. This will enhance good governance which is a vital component of the ESG discourse<sup>65</sup>.

Through these among other measures, Sustainable Development will be achieved through linking ADR and ESG tenets.

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<sup>61</sup> Ibid

<sup>62</sup> Muigua. K., 'Green Arbitration: Aligning Arbitration with Sustainable Development.' Available at <http://kmco.co.ke/wp-content/uploads/2023/04/Green-Arbitration-Aligning-Arbitration-with-Sustainable-Development-Kariuki-Muigua-April-2023.pdf> (Accessed on 12/07/2023)

<sup>63</sup> Muigua. K., 'Reflections on Human Rights in Arbitration.' Available at <http://kmco.co.ke/wp-content/uploads/2023/06/Reflections-on-Human-Rights-in-Arbitration.pdf> (Accessed on 12/07/2023)

<sup>64</sup> Mazhorina. M., 'ESG Principles in International Business and Sustainable Contracts.' Available at [https://aprp.msal.ru/jour/article/view/3223?locale=en\\_US](https://aprp.msal.ru/jour/article/view/3223?locale=en_US) (Accessed on 12/07/2023)

<sup>65</sup> Ibid

#### **4.0 Conclusion**

ADR and ESG are connected concepts. ADR mechanisms such as arbitration, mediation and adjudication are viable in managing ESG related disputes<sup>66</sup>. ADR mechanisms can also aid in enforcing ESG standards including sound environmental management, respect for human rights and good governance<sup>67</sup>. Connecting ADR and ESG tenets is thus vital in realizing Sustainable Development by addressing social concerns such as poverty, hunger, health, education, gender equality, access to clean water and employment through investments in areas such as energy, industry, innovation and infrastructure while mitigating the effects of climate change as envisaged under the United Nations 2030 Agenda for Sustainable Development<sup>68</sup>. Linking ADR and ESG tenets for Sustainable Development is a quest worth pursuing.

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<sup>66</sup> Thailand Arbitration Center., 'Alternative Dispute Resolution: Significance of ESG in Arbitration.' Op Cit

<sup>67</sup> Mazhorina. M., 'ESG Principles in International Business and Sustainable Contracts.' Op Cit

<sup>68</sup> United Nations., 'Transforming Our World: The 2030 Agenda for Sustainable Development.' Op Cit

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Lexology., 'Real Estate Disputes and ESG - A Rise in Mediation?' Op Cit; See also Teixeira. A., 'The ESG Concept and Mediation.' Available at <https://www.linkedin.com/pulse/esg-concept-mediation-antonio-carlos-menezes-teixeira/>

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